

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

ESSAR STEEL ALGOMA, INC.,

Plaintiff,

v.

SOUTHERN COAL SALES  
CORPORATION *et al.*,

Defendants.

Case No. 17-mc-00360-AT-RWL

**DECLARATION OF PHILIP D.  
ROBBEN IN SUPPORT OF KELLEY  
DRYE & WARREN LLP'S MOTION  
TO WITHDRAW AS COUNSEL**

**PHILIP D. ROBBEN** declares the following under 28 U.S.C. § 1746:

1. I am a member of the bar of this Court and a member of the law firm of Kelley Dye & Warren LLP ("Kelley Dye").

2. Kelley Dye is a counsel of record for the Defendants—*i.e.*, Nevada Holdings, Inc. (formerly Southern Coal Sales Corporation); James C. Justice Companies, Inc.; James C. Justice Companies, LLC; Bluestone Industries, Inc.; Bluestone Coal Corporation; Bluestone Mineral, Inc.; Bluestone Energy Sales Corporation; A&G Coal Corporation; Tams Management Inc.; Encore Leasing LLC; Bluestone Resources Inc.; Justice Family Farms, LLC; and Southern Coal Corporation.

3. I make this declaration in support of Kelley Dye's motion under Local Rule 1.4 and Rule 1.16(c) of the New York Rules of Professional Conduct for leave to withdraw as Defendants' counsel.

4. I make this declaration based on my personal knowledge formed from my involvement in the events discussed below and my review of pertinent records maintained by Kelley Dye in the ordinary course of its business.

5. Kelley Drye appeared in this action on July 5, 2018. On that day, Kelley Drye appeared as counsel for defendant Southern Coal Sales Corporation. Southern Coal Sales Corporation was the only defendant in the action at the time. Subsequently, Plaintiff sought leave to add the additional Defendants as parties. Kelley Drye was asked to, and did, agree to represent those additional Defendants.

6. In late December 2018, a dispute arose between Kelley Drye and Defendants.

7. On December 31, 2018, Defendants directed Kelley Drye to transfer the files concerning this action to The Getty Law Group, PLLC of Lexington, Kentucky (the "Getty Firm"). Defendants indicated that Richard A. Getty of the Getty Firm would be taking over as Defendants' counsel in this action.

8. Kelley Drye started transferring the files related to this matter to the Getty Firm on January 2, 2019. The transfer of the files to the Getty Firm was substantially complete before the end of January 2019. As of today, the files concerning this matter have been completely transferred to the Getty Firm. Kelley Drye lawyers with knowledge of this action have also participated in many telephone calls with Mr. Getty and his colleagues to assist the Getty Firm in assuming Defendants' representation.

9. On January 9, 2019, Mr. Getty appeared in this action for Defendants. On January 16, 2019, Danielle Harlan and Marcel Radomile of the Getty Firm also appeared in this Action for Defendants.

10. Mr. Getty and the Getty Firm have been directing Defendants' defense of this action since January 2019.

11. Efforts to resolve the dispute between Kelley Drye and Defendants have been unsuccessful. The lingering dispute has made it untenable for Kelley Drye to continue representing Defendants in this action.

12. Prior to filing this motion, I sent an e-mail to a representative of Defendants and Mr. Getty to let them know that Kelley Drye intended to make a motion for leave to withdraw.

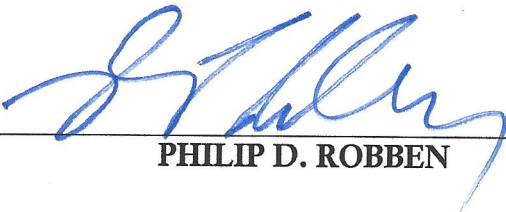
13. Notice of Kelley Drye's motion to withdraw and all of the supporting papers, including this Declaration, will be served on Defendants, Mr. Getty, and Plaintiff's counsel today, as required under Local Civil Rule 1.4.

14. Kelley Drye is not asserting a retaining or charging lien.

15. This Declaration is drafted in general terms in light of the provisions of Rule 1.6 of the New York Rules of Professional Conduct and the attorney-client privilege. In the event that the Court desires further information to ascertain the good faith basis for Kelley Drye's withdrawal, it is respectfully requested that the Court hold an *in camera* conference outside of the presence of Plaintiff and Plaintiff's counsel so that the specific facts demonstrating good cause for Kelley Drye's withdrawal may be demonstrated to the Court.

16. I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 9, 2019.

  
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PHILIP D. ROBBEN